IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 691 OF 2006

Dr. I. Jayaraj ..Petitioner.

V/s.

The Union of India, through ..Respondents.
The Secretary, Ministry of Railway,
New Delhi and Ors.

Mr. B.M. Vyas for the Petitioner.

Mr. Suresh Kumar for the Respondents 1 and 2.

Mr. V.B.Konde-Deshmukh, APP for the Respondent- State.

CORAM : D. G. DESHPANDE
S. A. BOBDE, JJ.

DATED : 15TH JUNE, 2006.

ORAL ORDER :-

1. Rule. By consent, Rule is made returnable forthwith and heard both the sides.

2. The petitioner is a Doctor by profession. C.R. No. 2 of 2004 is registered against him under sections 420, 465, 467, 468, 471 read with section 34 of the I.P.C. The allegations against the petitioner are that he issued a certificate of disability in favour of one Mrs. Anjana Jain and she then misused the said certificate to get certain benefits from railways to

travel with an attendant on the ground that she was a disabled woman. The certificate so issued by the petitioner, who is M.B.B.S., D.L.O, M.S., is filed with this petition at Exh. 'A'. It is dated 30th July, 2003. The petitioner has stated that Mrs. Jain is suffering from osteo arthritis left knee and septic arthritis right knee. Her functional loss is about 60% and she needs an assistant to travel.

3. The contentions of the petitioner's Advocate is that petitioner being a medical professional, was fully justified in issuing the certificate. If he found that Smt. Jain was really suffering from these diseases, in issuing such a certificate he has committed no illegality nor any offence because the issuance of the certificate is professional duty. It was also argued by the petitioner's Advocate that there is nothing even now with the police to show that the petitioner was made aware of the purpose for which the certificate was to be acquired by her and even if that is there, it cannot be said that he had committed any offence.

4. The learned Advocate for the petitioner drew our attention to one more vital document at Exh.'C', which is issued in favour of the said woman by the Institute of Physical Medicine and Rehabilitation, Mumbai. In

that certificate also it is stated that squatting not possible due to pain; functional both leg standing -poor i.e. reduced due to pain and joints movements are restricted terminally. Therefore, this certificate issued by a government institution, dated 19th March, 2004, fully supports the opinion of the petitioner which he has expressed in the certificate dated 30th July, 2003.

5. In this background, we confront with the learned APP and try to find out from him as to what offence the petitioner has committed. He could not give any satisfactory answer. We are not concerned with the role of the other accused or the Mrs. Anjana Jain in whose favour this certificate was issued but on the face of it, it is clear that implicating the petitioner in the said C.R. is totally wrong , baseless and illegal and therefore, this petition deserves to be allowed and hence we pass the following order :-

C.R.No. 2/2004, as prayed in the prayer, is quashed as against the petitioner. No order as to costs.

Rule is disposed of in the above terms.

(D.G.DESHPANDE,J)

Dt.15.06.2006

(S.A. BOBDE, J)

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